SILLS CUMMIS EPSTEIN & GROSS P.C.	
Charles N. Panzer, Esq.	Hearing Date: TBD
One Rockefeller Plaza	_
New York, New York 10020	
212-643-7000 (telephone)	
212-643-6500 (facsimile)	
Attorneys for Hewlett Packard Financial	
Services Company	
UNITED STATES BANKRUPTCY COURT	
SOUTHERN DISTRICT OF NEW YORK	
*	
In re	
	Chapter 11 Case No. 05 44491 (BDD)
DELPHI CORPORATION, et al.,	Chapter 11 Case No. 05-44481 (RDD)
DEET III COID OIGITION, or di.,	(Jointly Administered)
	(Johney Hammisterea)
Debtors.	

## RESPONSE OF HEWLETT PACKARD FINANCIAL SERVICES COMPANY TO DEBTORS' TWENTIETH OMNIBUS OBJECTION TO THE ALLOWANCE OF CERTAIN CLAIMS

Hewlett Packard Financial Services Company ("HPFS"), by counsel, Sills Cummis Epstein & Gross P.C., hereby submits its response to the Debtors' Twentieth Omnibus Objection to the Allowance of Certain Claims (the "Claims Objection") and represents as follows:

## Background

- 1. On or about October 8 and 14, 2005, the above captioned debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.
- 2. HPFS is a creditor of the Debtors and timely filed its proof of claim in the Chapter 11 cases. The claim, in the amount of \$953,280.40 was assigned claim #10683.

- 3. On or about August 24, 2007, the Debtors filed the Claims Objection. Included in the Claims Objection as a claim subject to modification was HP's claim # 10683. Specifically, the Claims Objection seeks to reduce the claim from \$953,280.40 to \$166,000.
- 4. The Debtors have provided no support for their contention that HPFS' claim should be reduced.
- 5. HPFS' claim is based upon amounts due from the Debtors under Master Lease
  No. 412666250 and five (5) lease schedules executed in connection therewith pursuant to which
  the Debtors leased certain computer equipment. Three of the lease schedules expired during the
  pendency of the Chapter 11 cases but the Debtors have continued in possession of the leased
  equipment. The claim as filed represented all amounts due under the Master Lease and lease
  schedules as of the date of the commencement of the Chapter 11 cases and through the expiration
  date (one lease was already expired and had incurred Usage Past Maturity charges at the time
  HPFS filed the POC in late July 2006) of the lease schedules.
- 6. Attached hereto as Exhibit "A is a schedule reflecting the pre and post-petition amounts due from the Debtors under the Master Lease and lease schedules. As reflected on Exhibit "A", as of September 18, 2007, the Debtors owe rent obligations to HPFS totaling \$447,898.41, of which total \$171,514.12 represented rent obligations owed as of the commencement of the case and \$276,384.29 represented rent obligations incurred post-petition.
- 7. Attached hereto as Exhibit "B" is a schedule reflecting personal property and/or use tax obligations due HPFS pursuant to the Master Lease and lease schedules. As reflected on Exhibit "B, as of September 18, 2007, the Debtors owed tax obligations to HPFS totaling \$96,748.60, of which total \$80,727.63 represented tax obligations owed as of the commencement of the case and \$16,022.97 represented obligations incurred post-petition.

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- 8. As reflected on Exhibits "A" and "B" the total obligations due HPFS as of September 18, 2007 were \$544,647.01, of which \$252,239.75 represented pre-petition obligations and \$292,407.26 represented post-petition obligations.
- 9. Section 502 of the Bankruptcy Code provides for the allowance of claims or interests in a bankruptcy case. As a general matter, a claim, proof of which is properly filed, constitutes *prima facie* evidence of the amount and validity of a claim, and is deemed allowed unless a party in interest objects. *See,* 11 U.S.C. § 502(a); *In re Rockefeller Center Prop.,* 241 B.R. 804 (Bankr. S.D.N.Y. 1999); *In re Woodmere Investors Ltd. P'ship,* 178 B.R. 346 (Bankr. S.D.N.Y. 1995); *In re Stallings,* 118 B.R. 387, 390 (Bankr. D.S.C. 1989); *aff'd,* 1989 WL 180888 (D.S.C. Dec. 12, 1989); *aff'd,* 914 F.2d 249 (4<sup>th</sup> Cir. 1990).
- 10. The party objecting to a proof of claim has the initial burden of proof to rebut the *prima facie* validity of a properly filed proof of claim. *See In re Mid-American Waste Systems, Inc.*, 284 B.R. 553 (D. Del. 2002); *In re Field*, 226 B.R. 178, 182 (Bankr. D.S.C. 1998). In order to overcome the presumption of validity that attaches to a properly filed proof of claim, a party objecting must produce substantial evidence. *In re Micro-Precision Technologies, Inc.*, 303 B.R. 238 (Bankr. D.N.H. 2003). Indeed, bald assertions or conclusory statements are insufficient to rebut the presumption of validity. *See In re Hollars*, 198 B.R. 270 (Bankr. S.D. Ohio 1996).
- 11. HPFS's Proof of Claim was timely filed. The Debtors have not articulated any legal or factual basis for the reduction of the claim.
- 12. Should the Debtors assume the Master Lease and lease schedules as is apparently their intention under their Plan of Reorganization, they will be required to cure the pre-petition obligations in full as well as paying all post-petition obligations that are or become due. Should

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the Debtors reject the Master Lease and lease schedules, HPFS is entitled to the allowance of a

pre-petition claim in the sum of \$252,239.75 and the payment in full of all sums that are due or

become due post-petition as an expense of administration.

WHEREFORE, for all of the foregoing reasons, HPFS respectfully requests that this

Court enter an Order (i) overruling the Omnibus Objection as to HPFS, (ii) allowing the HPFS

pre-petition claim in the sum of \$252,239.75, and requiring the Debtors to pay all post-petition

obligations due HPFS as an expense of administration and (iii) granting such other relief as the

Court deems just.

Dated: September 19, 2007

By:/s/ Charles N. Panzer

Charles N. Panzer, Esq.

SILLS CUMMIS EPSTEIN & GROSS P.C.

One Rockefeller Plaza

New York, New York 100020

Telephone: 212-643-7000

Facsimile: 212-643-6500

Counsel to Hewlett Packard Financial Services

Company

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## **EXHIBIT A**

Report Title: Contract List

Contract #	Customer: De
Commence Date	Customer: Delphi Automotive Systems LLC (123514939)
	Systems LLC
Maturity Date Term	: (123514939)

Contract # TOTALS: 41250A	Commence Date Maturity Date Term  02/01/2003 01/31/2006 36	Rem. Term	Total Rent Due Thru 9/30/2007 447,898.41 81,718.06	Pre-Petition 171,514.12 31,455.86
TOTALS:			447,898.41	171,5
41250A		0	81,718.06	31
41250B		0	36,179.24	25
4126-66250-05	06/01/2003 05/31/2006 36	0	17,189.28	
4126-66250-06	09/01/2003 08/31/2006 36	0	44,360.00	13,
4126-66250-07		0	4,817.21	
4126-66250-08		0	32,556.24	<b>14</b>
4126-66250-09	07/01/2005 06/30/2008 36	9	231,078.38	87,

## **EXHIBIT B**

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en PPI Sum	Open PP I Summary as of 9-12-, Report Date:	1907/71/60 a						-		
etomor Tolo	Cietomar: Delphi Automotive Systems I I C (123514939)	(123514939)							The state of the s	
Contract #	Pmt Due Date Inv. Control #	oi# Inv.Type	Billing Amt Tax Amt Invoice Total	ax Amt		Applied Credit	Amt Due	PRE-PETITION	POST-PETITION	COMMENTS
									1	
OTALS:			96,748.60	718.39	97,466.99	-718.39	96,748.60	80,725.63	16,022,97	
NOUNDOUS SE	d 08/43/0008 100801080777	777   Dronedy Tay	8 791 44	000	8 791 44	000	8 791 44	8 791 44		2003 PPT (pre-petiton)
50A			7	0.00	42,169.52		42,169,52	42,169.52	0.00	2004 PPT (pre-petition)
41250B			5,558.18	0.00	5,558.18		5,558.18	5,558.18		2004 PPT (pre-petition)
11250A			19,947.60	0,00	19,947.60	0.00	19,947.60	15,302.27	4,645.33	petiton
1250B	03/24/2006 501624482	Property Tax	4,726.68	0.00	4,726.68	0,00	4,726.68	3,625.95	1,100.73	petition
126-66250-05	12/02/2005 501427950	Property Tax	289.00	17.43	306,43	-17.43	289.00	221.70		petition
126-66250-05	03/24/2006 501624481	Property Tax	131.21	7.98	139.19	-7.98	131.21	100.65	30.56	petiiton
1126-66250-06	12/02/2005 501427950	Property Tax	470.19	28.23	498,42	-28.23	470.19	360.69	109.50	petiton
ø126-66250-06	03/24/2006 501624481	Property Tax	213.60	12.85	226,45	-12.85	213.60	163.86	49.74	petition
126-66250-06	11/03/2006 501980676	Property Tax	264.53	15.89	280.42	-15.89	264.53	202.93	61.60	petiton
1126-66250-07	12/02/2005 501427949	Property Tax	199.67	0.00	199.67	0.00	199.67	153.17	46.50	petition
1126-66250-07	12/02/2005 501427950	Property Tax	27.98	0.00	27.98	0.00	27.98	21.46	6.52	petiiton
126-66250-07	03/24/2006 501624483	Property Tax	210.04	0,00	210.04	0.00	210.04	161.13	48.91	petiiton
1126-66250-07	03/24/2006 501624481		12.72	0,00	12.72	0.00	12.72	9.76		petiiton
126-66250-08	12/02/2005   501427951		5,061.67	328.83	5,390.50	-328.83	5,061.67	3,882.92	1,178.75	petiiton
350B	04/28/2007 502311052			0.00	3,689.88		3,689,88	0.00	(.)	2006 PPT
106 66250-05	04/28/2007 502311050			5.26	91.79		86.53	0.00		2006 PPT
¥-66250-06	04/28/2007 502311050			8.50	149.23	-8.50	140.73	0.00		2006 PPT
<b>6</b> -66250-07	04/28/2007 502311050			0.00	8.44	0.00	8.44	0.00	8.44	2006 PPT
<b>0</b> -66250-07	04/28/2007 502311051			0.00	144.84	0.00	144,84	0.00		2006 PPT
4126-66250-08	11/04/2006 501981052	Property Tax		196.48	3,217.35	-196.48	3,020.87	0.00	3,020.87	2006 PPT
6 66250-09	11/04/2006 501981052	Property Tax	208.28	13.44	221.72	-13.44	208.28	0.00		2006 PPT
5-66250-09	11/14/2006 502033479	Property Tax	56.16	4.35	60.51	4.35	56.16	0.00	56.16	2006 PPT
126-66250-09	04/28/2007 502311050	Property Tax	1,140.64	68.46	1,209.10	-68,46	1,140.64	0.00	1,140.64	2006 PPT
126-66250-09	04/28/2007   502311051	Property Tax	178 20	200	08 881	-10 69	06 821	י ממ	00 82.1	JONE DOT